

POLICY CONCERNING ACCESS TO PUBLIC RECORDS

1.0 PURPOSE

1.1 To set forth a general policy and procedures for providing access to public records maintained by the City in compliance with the standards and requirements of the Colorado Public Records Law, C.R.S. Section 24-72- 101, et seq. (the Act).

1.2 To establish reasonable and standardized fees for producing copies of and information from City maintained records as authorized by the Act.

2.0 SCOPE

2.1 The policy shall apply to all City records and copies of all information requested and/or released with the exception of those records covered under the Criminal Justice Records Act, in which case only the fees contained herein shall apply. If the records requested are criminal justice records, the requestor must file a records request with the Delta City Police Department.

3.0 POLICY

It is the policy of the City that public records shall be open for inspection at reasonable times in accordance with the Act. Public records, under certain circumstances, include electronic mail messages (email).

4.0 PROCEDURES

4.1 As designated by Charter, the City Clerk is the custodian of all public records which are maintained in the office of the City Clerk. Department Heads are the official custodians of all records maintained within their departments. Except, however, that each individual is the custodian of his or her incoming and outgoing email. It is the responsibility of each Department Head to become familiar with and to educate his/her affected employees with the standards and requirements of this Policy. A Public Records Request Form must be filed with the City Clerk or Department Head to initiate a request for a public record under the Act (except where the request is for a single page document, in which case a request form is not necessary).

4.2 Except as provided in Sections 4.3, 4.4 and 4.5 of this Policy, all public records as defined in the Act shall be open for inspection in the office of the records custodian during normal office hours observed by the Administrative Offices of the City of Delta.

4.3 Inspection of the following public records shall not be permitted:

4.3.1 If upon consultation with the City Attorney, it is determined that inspection would be contrary to any state statute, federal statute, or regulation issued thereunder or is prohibited by rules promulgated by the order of any court.

4.3.2 Communications from attorneys in the City Attorney's Office or other special counsel should not be released to any individuals other than those to whom the communication was directed without the consent of the attorney who wrote the communication or the City Attorney.

4.3.3 If, in the opinion of the record custodian, disclosure of the contents of any public record would do substantial injury to the public interest. Notwithstanding the fact that said record might otherwise be available for public inspection under the provisions of this policy, the records custodian may deny access to such public record, and at the direction of the City Council, the City Attorney's Office may apply to the Delta County District Court for an order permitting the records custodian to restrict such disclosure.

4.4 If the public records requested are not in the custody or control of the records custodian, the applicant may request a written statement explaining the reason for the absence of the records from such custodian's custody or control, their location and what person has custody or control of the records.

4.5 If the public records requested are in the custody and control of the records custodian, but are in active use or in storage and, therefore, not available at the time an applicant asks to examine them, the applicant may request a written statement to that effect. Upon written request of the applicant specifying exactly which documents are being requested, the custodian shall set a date and hour, within the following three full working days unless extenuating circumstances exist, at which time the records will be available for inspection. In the event that extenuating circumstances exist as defined in the Act; the custodian shall have seven full working days.

4.6 If a public record which is requested contains information which is exempt from disclosure (i.e. is not to be disclosed) under this Policy or the Act together with information which may be disclosed under this Policy or the Act, the records custodian shall not release such record. Except as determined by the records custodian, public records shall not be altered to permit disclosure where inspection of the public record without alteration, would otherwise be contrary to this Policy or the Act. The records custodian is not under a duty to create any new public record in response to a request.

4.7 Questions concerning requests for information should be directed immediately to the Office of the City Attorney.

4.8 In all cases in which a person has the right to inspect any public record pursuant to this Policy, copies, printouts, plots, or photographs of such records may be provided to the applicant. Prior to the reproduction and/or receipt of such record, the applicant shall pay a reasonable fee for such service. The costs of reproduction as stated in this section have been determined to be the cost of the City in producing such documents.

4.8.1 Periodically situations will arise concerning the charging of fees that will require flexibility and common sense. To provide that flexibility, Department Heads are

authorized to make decisions on situations not specifically covered by this Policy. All decisions must be made within the general intent of this Policy and in the best interest of the City.

4.8.2 Brochures and pamphlets produced specifically for assistance and convenience of citizens and businesses in complying with municipal regulations are not affected by this Policy and may be distributed free of charge.

4.8.3 Copies of any books the City has printed, i.e. the Code book, are available at the City's cost to have them printed.

4.8.4 No fee will be charged to employees of the City for copies, up to 25 pages per year, of information maintained by the Human Resources Department, provided the information specifically pertains to the requesting employee. Copies of personnel information otherwise requested by an employee under the provisions of the Act will be provided at the rate set forth in the Fee Schedule.

4.8.5 No fee will be charged to employees of the City for copies of documents required in carrying out their officially assigned duties within the scope of public service.

4.8.6 The office of the City Clerk will provide copies of the Council agenda. Individuals requesting copies of the agendas to be mailed must supply the office of the City Clerk with self-addressed stamped envelopes. No fee will be charged for faxing agendas locally.

4.9 Upon receipt of an Open Records Act request, the Clerk shall prepare a cost estimate of the cost of service, including copying charges for any copies requested and research or other fees. If the cost estimate exceeds \$50.00, the applicant must pay a deposit of \$50.00 in advance. By signing the estimate, the applicant shall agree to pay the total cost when the records are made available. The City Clerk will research and compile the records in response to the Open Records Request and shall notify the applicant of the completion of the request, the availability of the records, and shall collect any remaining fees due before any copies of records are turned over to the applicant.